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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91231822
Party	Plaintiff Parkwood Topshop Athletic Limited
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Submission	Motion to Compel Discovery or Disclosure
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Signature	/Marvin S. Putnam/
Date	09/20/2017
Attachments	2017-9-20 Parkwood Motion to Compel and Extend Time.pdf(154572 bytes) 2017-9-20 Meet and Confer Statement.pdf(138507 bytes) 2017-9-20 Sandler Declaration with exhibits.pdf(309320 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PARKWOOD TOPSHOP ATHLETIC
LIMITED,

Opposer,

v.

47 | 72 Inc.,

Applicant.

Opposition No. 91231822

Serial No. 87001440

Mark: **POISON IVY PARK**

**OPPOSER PARKWOOD TOPSHOP ATHLETIC LIMITED'S MOTION TO COMPEL
AND EXTEND TIME**

Pursuant to 37 C.F.R. section 2.120(f), Opposer Parkwood Topshop Athletic Limited (“Parkwood”) hereby respectfully requests that the Board issue an order compelling Applicant 47 | 72 Inc. (“Applicant”) to respond to Opposer’s First Set of Interrogatories to Applicant 47 | 72, Inc. (“Interrogatories”) and Opposer’s First Set of Requests for Production of Documents to Applicant 47 | 72, Inc. (“RFPs”) (collectively, the “Discovery Requests”). To account for Applicant’s failure to timely provide any responses, Parkwood also seeks an order pursuant to Federal Rule of Civil Procedure 6(b) and TBMP section 509 extending the time for Parkwood to disclose its expert(s) until 30 days after the date the Board mandates that Applicant respond to Parkwood’s outstanding discovery requests. Parkwood has attempted in good faith to meet and confer with Applicant on these issues, but Applicant has been unresponsive.

INTRODUCTION

Applicant has flatly ignored Parkwood’s Discovery Requests and subsequent communications regarding those requests. Without those responses, this opposition has effectively been placed at a standstill. Parkwood, thus, seeks relief from the Board. First, Parkwood requests that the Board issue an order compelling Applicant to respond to Parkwood’s

Discovery Requests. Second, Parkwood requests that the Board extend the time for Parkwood to disclose any experts, pending receipt of Applicant's responses to the Discovery Requests.

BACKGROUND

On July 20, 2017, Parkwood served Applicant with the Discovery Requests. (Declaration of Jonathan R. Sandler in Support of Parkwood's Motion to Compel and Extend Time, at ¶ 2 ("Sandler Decl.")). Applicant failed to timely respond. (*Id.* at ¶ 3.) On August 22, 2017, undersigned counsel sent an email to Applicant inquiring whether Applicant had any intention of responding. (*Id.* at ¶ 4.) The email further explained that, as a result of Applicant's failure to respond, Parkwood's requests for admission had been deemed admitted and Applicant had waived its right to object to the discovery requests. (*Id.*) Applicant never responded to that email. (*Id.* at ¶ 5.)

On September 15, 2017, undersigned counsel sent a second email to Applicant regarding its failure to respond to the Interrogatories and RFPs, as well as its failure to respond to the August 22, 2017 email. (*Id.*) Parkwood requested that Applicant specify a time to meet and confer regarding a motion to compel. (*Id.*) After receiving no response from Applicant, Parkwood informed Applicant that Parkwood intended to move to compel responses and extend its deadline to disclose experts. (*Id.* at ¶ 6.)

ARGUMENT

Where, as here, a party fails to properly respond to discovery requests, the Board should intervene to compel compliance. 37 C.F.R. § 2.120(f). Parkwood seeks only proper discovery that is directly relevant to this opposition. TBMP § 402.01; Fed. R. Civ. P. 26(b)(1); 37 C.F.R. § 2.120(a)(1); *Mack Trucks, Inc. v. Monroe Auto Equipment Co.*, 181 U.S.P.Q. 286, 287 (T.T.A.B. 1974). For instance, Parkwood's Interrogatories seek information pertaining to the

types of products and services Applicant intends to sell, as well as the geographic location in which Applicant intends to operate. Sandler Decl., Ex. 2, at Interrogatory Nos. 3-6. As another example, Parkwood's RFPs seek information regarding the timing of Applicant's use of the contested mark. Sandler Decl., Ex. 3, at Request Nos. 15-16. Such information is relevant to Parkwood's allegations of consumer confusion, dilution, and priority of use.

Nevertheless, Applicant has completely flouted its discovery obligations. Applicant has not provided any responses, and indeed, has entirely refused to communicate with Parkwood. Where a responding party does not respond at all, an order compelling responses is warranted. *Jain v. Ramparts Inc.*, 49 U.S.P.Q.2d 1429, 1436 (T.T.A.B. 1998) (interrogatories and document requests); *see also, e.g., No Fear, Inc. v. Ruede D. Rule*, 54 U.S.P.Q.2d 1551, 2000 WL 390033, at *4-5 (T.T.A.B. March 30, 2000); *Cigar King, LLC v. Corporacion Habanos, S.A.*, 560 F. App'x 999, 1000 (Fed. Cir. 2014). Given that Parkwood's Discovery Requests plainly seek relevant information, and Applicant is in default for its complete failure to respond, an order compelling responses is proper.¹

In addition, in light of Applicant's complete failure to provide Parkwood with fact discovery, Parkwood is not able at this time to determine whether expert testimony will be necessary in this matter. It, thus, respectfully requests that the Board extend the time for Parkwood to disclose its expert(s) for a period of 30 days from the date the Board mandates that Applicant respond to Parkwood's Discovery Requests. Such an extension is proper here. TBMP § 509.01; *see also* 37 C.F.R. § 2.116(a); Fed. R. Civ. P. 6(b). "Ordinarily, the Board is liberal in granting extensions of time before the period to act has elapsed, so long as the moving party has

¹ As a result of Applicant's refusal to respond, Applicant has also forfeited its right to object to Parkwood's Discovery Requests on their merits. TBMP § 403.03.

not been guilty of negligence or bad faith and the privilege of extensions is not abused.” *Am. Vitamin Prods., Inc. v. Downbrands Inc.*, 22 U.S.P.Q.2d 1313, 1314 (T.T.A.B. Jan. 16, 1992). Here, good cause exists to extend the time set for Parkwood’s disclosure of its expert(s), as Applicant’s delay tactics have rendered Parkwood unable to determine whether or not expert testimony is necessary.

Applicant should not be allowed to profit from its improper refusal to provide discovery responses by essentially leveraging its delay to foreclose Applicant’s ability to put on expert testimony. *See Decorative Ctr. of Houston, L.P. v. Direct Response Publ’ns, Inc.*, 208 F.Supp.2d 719, 736 (S.D. Tex. 2002) (granting motion to extend time to designate expert, based, in part, on the defendant’s failure to respond to discovery requests); *cf. Sunkist Growers, Inc. v. Benjamin Ansehl Co.*, 229 U.S.P.Q. 147, 1985 WL 72035, at *3 (T.T.A.B. Nov. 20, 1985) (granting motion to extend discovery and trial dates to allow opposer to review and analyze applicant’s compelled discovery responses). Based on Applicant’s conduct, Applicant should not be afforded the same extension. *See Am. Vitamin Prods., Inc.*, 22 U.S.P.Q.2d 1315-16.

CONCLUSION

For the foregoing reasons, Parkwood respectfully requests that the Board issue an order (1) requiring Applicant to respond to Parkwood’s RFPs and Interrogatories within 30 days of the Board’s order and (2) extending the time for Parkwood to disclose its expert(s) until 30 days from the deadline for Applicant to produce those discovery responses.

Dated: September 20, 2017

LATHAM & WATKINS LLP

By /Marvin S. Putnam/
Marvin S. Putnam (Bar No. 212839)
Marvin.Putnam@lw.com
Laura R. Washington (Bar No. 266775)
Laura.Washington@lw.com
Jonathan R. Sandler (Bar No. 294129)
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Telephone: +1.424.653.5500
Facsimile: +1.424.653.5501

*Attorneys for Opposer,
Parkwood Topshop Athletic Limited*

CERTIFICATE OF SERVICE

I, John Eastly, hereby certify that on September 20, 2017, I served true and correct copies
of:

- **OPPOSER PARKWOOD TOPSHOP ATHLETIC LIMITED'S MOTION TO COMPEL AND EXTEND TIME,**
- **DECLARATION OF JONATHAN R. SANDLER IN SUPPORT OF PARKWOOD'S MOTION TO COMPEL AND EXTEND TIME**
- **MEET AND CONFER STATEMENT IN SUPPORT OF PARKWOOD'S MOTION TO COMPEL AND EXTEND TIME,**

by electronic mail, upon:

Mike Lin
47/72, Inc.
900 East 1st Street, Unit 110
Los Angeles, CA 90012
mikelinsf@gmail.com

/John M. Eastly/
John M. Eastly

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PARKWOOD TOPSHOP ATHLETIC
LIMITED,

Opposer,

v.

47 | 72 Inc.,

Applicant.

Opposition No. 91231822

Serial No. 87001440

Mark: **POISON IVY PARK**

**MEET AND CONFER STATEMENT IN SUPPORT OF PARKWOOD’S MOTION TO
COMPEL AND EXTEND TIME**

I, Jonathan R. Sandler, hereby certify that I, representing Opposer Parkwood Topshop Athletic Limited (“Parkwood”), attempted in good faith to meet and confer with Applicant 47 | 72 Inc. (“Applicant”), pursuant to 37 C.F.R. section 2.120(f) and Trademark Trial and Appeal Board Manual of Procedure (“TBMP”) section 523.02. (*See* Declaration of Jonathan R. Sandler in Support of Parkwood’s Motion to Compel and Extend Time, at ¶¶ 4-5 (“Sandler Decl.”).) Despite my attempts to arrange a time to meet and confer, Applicant never responded to any of my communications. (*Id.* at ¶ 6.) It is my understanding that Applicant’s silence may be taken to mean tacit opposition.

Dated: September 20, 2017

LATHAM & WATKINS LLP

By /Jonathan R. Sandler/
Marvin S. Putnam (Bar No. 212839)
Marvin.Putnam@lw.com
Laura R. Washington (Bar No. 266775)
Laura.Washington@lw.com
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*Attorneys for Opposer,
Parkwood Topshop Athletic Limited*

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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PARKWOOD TOPSHOP ATHLETIC
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Mark: **POISON IVY PARK**

DECLARATION OF JONATHAN R. SANDLER
IN SUPPORT OF PARKWOOD'S MOTION TO COMPEL AND EXTEND TIME

I, Jonathan R. Sandler, declare as follows:

1. I am an attorney with the law firm of Latham & Watkins LLP, which represents Opposer Parkwood Topshop Athletic Limited ("Parkwood") in the above-captioned action. The facts set forth below are based on my personal knowledge, including knowledge gained through my review of and familiarity with files and documents in this matter. If called as a witness in this action, I could and would testify competently thereto.

2. On July 20, 2017, my office served Mike Lin, the owner of 47 | 72 Inc. ("Applicant") with three sets of discovery requests via email: 1) Opposer's First Set of Interrogatories to Applicant 47 | 72 Inc. ("Interrogatories"); 2) Opposer's First Set of Requests for Admission to Applicant 47 | 72 Inc. ("RFAs"); and 3) Opposer's First Set of Requests for Production of Documents to Applicant 47 | 72 Inc. ("RFPs") (collectively, the "Discovery Requests"). A true and correct copy of the July 20, 2017 email I sent to Applicant containing Parkwood's Discovery Requests, and my subsequent emails related to that message, is attached

hereto as **Exhibit 1**. A true and correct copy of Parkwood's Interrogatories is attached hereto as **Exhibit 2**. A true and correct copy of Parkwood's RFPs is attached hereto as **Exhibit 3**.

3. As of August 19, 2017, thirty days after my office served Parkwood's Discovery Requests, Applicant had not responded to the requests.

4. On August 22, 2017, I emailed Mr. Lin explaining that the deadline to respond to Parkwood's Discovery Requests had lapsed. I also explained that, as a result of Applicant's failure to respond, Parkwood's RFAs were deemed admitted and Applicant had forfeited its objections to any of the Discovery Requests. I concluded by asking Mr. Lin if he intended to respond to the Interrogatories or RFPs. *See Ex. 1*.

5. As of September 15, 2017, my office had still not received any response from Mr. Lin. That day, I sent Mr. Lin another email raising the issue of Applicant's failure to respond to Parkwood's Discovery Requests and Mr. Lin's failure to respond to my prior correspondence. I also indicated Parkwood's intention to file a motion to compel and requested that Mr. Lin identify a time to meet and confer. *See Ex. 1*.

6. On September 19, 2017, having received no response to my prior message, I sent another email to Mr. Lin stating that I would interpret his failure to respond as an indication of his intent to oppose a motion to compel. I also informed Mr. Lin of my intent to move for an extension of Parkwood's deadline to disclose its expert(s). *See Ex. 1*.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 20th day of September 2017 at Los Angeles, California.

/Jonathan R. Sandler/
Jonathan R. Sandler

EXHIBIT 1
TO THE
DECLARATION OF
JONATHAN R. SANDLER

Sandler, Jonathan (CC)

From: Sandler, Jonathan (CC)
Sent: Tuesday, September 19, 2017 10:55 AM
To: 'mikelinsf@gmail.com'
Cc: Washington, Laura (CC); Eastly, John (CC)
Subject: RE: Parkwood Topshop Athletic Limited v. 47/72, Inc. - Opposition No. 91231822

Mr. Lin,

On Friday, September 15, 2017, I emailed you seeking your availability to meet and confer regarding my client's motion to compel your responses to its outstanding requests for production of documents and interrogatories. Having received no response from you, we understand your silence to mean that you oppose the motion.

In addition, as you know the deadline for the parties to disclose experts is September 22, 2017. Because we have received no discovery responses from you and no communications from you, we cannot know whether expert testimony will be necessary in this proceeding. We will, thus, request that the Board extend our expert disclosure deadline.

Regards,
Jonathan

Jonathan R. Sandler

LATHAM & WATKINS LLP
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Los Angeles, CA 90067
Direct Dial: +1.424.653.5574
Fax: +1.424.653.5501
Email: jonathan.sandler@lw.com
<http://www.lw.com>

From: Sandler, Jonathan (CC)
Sent: Friday, September 15, 2017 12:59 PM
To: 'mikelinsf@gmail.com' <mikelinsf@gmail.com>
Cc: Washington, Laura (CC) <Laura.Washington@lw.com>; Eastly, John (CC) <John.Eastly@LW.com>
Subject: RE: Parkwood Topshop Athletic Limited v. 47/72, Inc. - Opposition No. 91231822

Mr. Lin,

I write to follow up on my email of August 22 (below) regarding your failure to respond to our discovery requests served on July 20, 2017. We have still not received any responses to those discovery requests, nor have we received any response to my below email.

We will now be moving to compel your long-overdue responses to the interrogatories and requests for production of documents. Are you available on Monday or Tuesday of next week (September 18th or 19th) to meet and confer regarding our motion to compel? Please advise.

Thank you,
Jonathan

Jonathan R. Sandler

LATHAM & WATKINS LLP

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Direct Dial: +1.424.653.5574
Fax: +1.424.653.5501
Email: jonathan.sandler@lw.com
<http://www.lw.com>

From: Sandler, Jonathan (CC)

Sent: Tuesday, August 22, 2017 2:10 PM

To: mikelinsf@gmail.com

Cc: Washington, Laura (CC) <Laura.Washington@lw.com>; Eastly, John (CC) <John.Eastly@LW.com>

Subject: RE: Parkwood Topshop Athletic Limited v. 47/72, Inc. - Opposition No. 91231822

Mr. Lin,

I write regarding the discovery requests that we served on July 20, 2017. (See below in this e-mail chain.) We served three sets of requests: requests for admission, requests for production of documents, and interrogatories. Each of those discovery requests informed you that, pursuant to the Federal Rules of Civil Procedure and relevant TTAB Rules, responses were due within 30 days of service. That deadline has now passed, and we have not received any responses from you. As a result, the requests for admission are now deemed admitted, and you have forfeited your right to lodge objections to any of the discovery requests.

Please advise whether you intend to respond to the discovery requests.

Thank you,
Jonathan

Jonathan R. Sandler

LATHAM & WATKINS LLP

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Direct Dial: +1.424.653.5574
Fax: +1.424.653.5501
Email: jonathan.sandler@lw.com
<http://www.lw.com>

From: Eastly, John (CC)

Sent: Thursday, July 20, 2017 4:19 PM

To: mikelinsf@gmail.com

Cc: Washington, Laura (CC) <Laura.Washington@lw.com>; Sandler, Jonathan (CC) <Jonathan.Sandler@lw.com>

Subject: Parkwood Topshop Athletic Limited v. 47/72, Inc. - Opposition No. 91231822

Dear Mr. Lin,

Attached please find the attached:

1. Opposer's First Set of Interrogatories to Applicant 47/72, Inc.;
2. Opposer's First Set of Requests for Admission to Applicant 47/72, Inc.; and
3. Opposer's First Set of Requests for Production of Documents to Applicant 47/72, Inc.

Regards,
John Eastly

EXHIBIT 2
TO THE
DECLARATION OF
JONATHAN R. SANDLER

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
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PARKWOOD TOPSHOP ATHLETIC
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47 | 72 Inc.,

Applicant.

Opposition No. 91231822

Serial No. 87001440

Mark: **POISON IVY PARK**

**OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT 47 |
72 INC.**

Opposer, Parkwood Topshop Athletic Limited, pursuant to Rule 33 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, hereby serves its first set of interrogatories on Applicant, 47 | 72 Inc., and requests that you provide appropriate written responses (“RESPONSES”) to the below interrogatories (the “INTERROGATORIES”) separately and fully, in writing, under oath, furnishing all such information as is available to it within thirty (30) days of service hereof at the offices of Opposer’s attorneys, Latham & Watkins LLP, Attn: Laura Washington, 10250 Constellation Blvd. Suite 1100, Los Angeles, CA 90067.

DEFINITIONS

1. “APPLICANT,” “YOU,” and “YOUR” shall mean 47 | 72 Inc., Mike Lin, and both of their respective attorneys, attorneys-in-fact, agents, representatives, officers, board members, employees, guardians, insurance companies, servants, accountants, investigators, successors, predecessors, assigns, and anyone else acting on their behalf or subject to their CONTROL.
2. “OPPOSER” shall mean Parkwood Topshop Athletic Limited.
3. “IVY PARK MARK” shall refer to the IVY PARK mark, registered by OPPOSER with the USPTO having Serial No. 86897192 and Registration No. 5169457.
4. The “CONTESTED MARK” shall refer to the POISON IVY PARK mark, which APPLICANT applied for with the USPTO, having Serial No. 87001440.
5. “DOCUMENT(S)” shall mean and refer to any and all written, recorded (by tape, video or otherwise), graphic, or photographic matter, however produced or reproduced, pertaining in any manner to the subject matter indicated and includes, without limiting the generality of the foregoing, all agreements, appointment books, bills, bills of material, books, cablegrams, calendars, cards, cellular telephone data, charts, checks, computer data, computer

hard copy, computer printouts, email communications (including email communications between and/or among any of the following: YOU, OPPOSER and/or any party to the above-captioned matter), contracts, correspondence, credit memoranda, data files, development reports or studies, diaries, electronic mail, expense accounts, feasibility reports or studies, file cards, films, financial statements and reports, insurance policies, invoices, journals, ledgers, letters, logs, manuals, maps, memoranda, memorials of telephone conversations, microfilm, minutes, notebooks, notes, notices, papers, presentations, protocols, publications, purchase orders, receipts, recordings by any medium, records, reports, research, slides, specifications, statements, studies, telegrams, telexes, text messages, timesheets, transcripts, web pages, and any other pertinent information set forth in written language or any electronic representation thereof. DOCUMENT(S) shall further include, without limitation, all preliminary, intermediate, and final drafts or versions of any DOCUMENT, including all originals or copies thereof, as well as any notes, comments, and marginalia appearing on any DOCUMENT, and shall not be limited in any way with respect to the process by which any DOCUMENT was created, generated, or reproduced, or with respect to the medium in which the DOCUMENT is embodied. DOCUMENT(S) shall include all tangible forms of expression within YOUR possession, custody, or CONTROL. The term DOCUMENT(S) specifically includes ELECTRONIC DATA.

6. “ELECTRONIC DATA” shall include writings of every kind and description whether inscribed by mechanical, facsimile, electronic, magnetic, digital or other means, and means the original, or identical duplicate when the original is not available, and any non-identical copies, whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations or highlighting of any kind. ELECTRONIC DATA includes, but is not limited to, activity listings of electronic mail receipts and/or transmittals,

output resulting from the use of any software program, including word processing document(s), spreadsheets, database files, charts, graphs and outlines, electronic mail and any and all items stored on electronic media, including, but not limited to, cellular telephones, computer memories, hard disks, floppy disks, CD-ROMs and removable media. The term “ELECTRONIC DATA” also includes the file, folder tabs and/or containers and labels appended to, or associated with, any physical storage device associated with each original and/or copy.

7. “COMMUNICATE,” “COMMUNICATED,” or “COMMUNICATION(S)” shall mean and refer to the exchange of information by any means, including, without limitation, telephone, telecopy, facsimile, electronic mail, text message, or other electronic medium, letter, memorandum, notes or other writing method, meeting, discussion, conversation or other form of verbal expression.

8. “CONTROL,” “CONTROLLED,” or “CONTROLLING” shall mean and refer to the authority, capability, capacity, and/or power to check, command, control, dictate, direct, govern, oversee, regulate, restrain, or otherwise exercise any influence over, or suggest or dictate to any extent the behavior of, any PERSON.

9. “RELATE TO,” “RELATED TO,” or “RELATING TO” shall mean relating to, pertaining to, referring to, evidencing, in connection with, reflecting, respecting, concerning, based upon, stating, showing, establishing, supporting, bolstering, contradicting, refuting, diminishing, constituting, describing, recording, noting, embodying, memorializing, containing, mentioning, studying, analyzing, discussing, specifying, identifying, or in any other way bearing on the matter addressed in the Request, in whole or in part.

10. “PERSON,” as used herein, shall mean an individual, firm, partnership, company, corporation, proprietorship, association, profit sharing plan, union, federation, domestic or

foreign government body, or any other organization or entity, including but not limited to groups of natural persons acting in an organizational capacity, such as a board of directors or committee of such board, or government entity.

11. As used herein, the term “IDENTIFY” as applied to a DOCUMENT means that the following information shall be provided; in the alternative, the identified DOCUMENT may be produced to defendants along with YOUR RESPONSES to these INTERROGATORIES:

- A. the date appearing on such DOCUMENT, and if no date appears thereon, the answer shall so state and shall give the date or approximate date such DOCUMENT was prepared;
- B. the identifying or descriptive code number, file number, title or label of such DOCUMENT;
- C. the general nature or description of such DOCUMENT (*i.e.*, whether it is a letter, memorandum, drawing, etc.) and the number of pages of which it consists;
- D. the name of the PERSON who signed such DOCUMENT, and if it was not signed, the answer shall so state and shall give the name of the PERSON or PERSONS who prepared it;
- E. the name of the PERSON to whom such DOCUMENT was addressed and the name of each PERSON other than such addressee to whom such DOCUMENT or copies thereof were given or sent;
- F. the name of the PERSON having possession, custody or CONTROL of such DOCUMENT;

- G. whether or not any draft, copy, or reproduction of such DOCUMENT contains any postscript, notation, change, or addendum not appearing on the original of said DOCUMENT, and if so, the answer shall give the description as herein defined of each such draft, copy, or reproduction;
- H. if any DOCUMENT was, but is no longer, in YOUR possession or subject to YOUR CONTROL, state what disposition was made of such DOCUMENT and when;
- I. if any DOCUMENT is claimed to be privileged, state the basis on which the claim of privilege is asserted and describe the subject matter covered in the DOCUMENT; and
- J. if any DOCUMENT is presently located in the hands of legal counsel, the term “identify” additionally means to state the location of the DOCUMENT immediately prior to its coming into the hands of legal counsel and to identify the PERSON who had prior custody of the DOCUMENT.

12. As used herein, the term “IDENTIFY” as applied to a natural person means to give the following information:

- A. full name;
- B. present or last known business address and telephone number;
- C. title or occupation;
- D. present or last known employer; and

- E. if the person's present whereabouts are unknown to YOU, state all information known to YOU that reasonably may be helpful in locating said person.

13. As used herein, the term "IDENTIFY" as applied to a corporation, company or PERSON other than a natural person means to give the following information:

- A. the name;
- B. the place of incorporation or organization;
- C. the principal place of business; and
- D. the identity of all natural persons having knowledge of the matter with respect to which it is named in response to a interrogatory.

14. As used herein, the term "IDENTIFY," when used in reference to a meeting or conversation, shall mean to give the following information:

- A. the date, time, place and duration of the meeting or conversation;
- B. the identity of each attendee or participant at the meeting or conversation;
and
- C. the identity of each witness or other individual with personal knowledge of the meeting or conversation.

15. Wherever the word "any" appears herein, it shall be read and applied so as to include the word "all," and wherever the word "all" appears herein, it shall be read and applied so as to include the word "any."

16. All references herein to the singular include the plural, and all references to the plural include the singular.

17. The terms "and" and "or" as used herein each mean "and/or."

INSTRUCTIONS

1. The definitions and requirements contained in the Federal Rules of Civil Procedure are incorporated herein by reference.
2. Answer each INTERROGATORY completely.
3. State the reasons for any objection to any portion of an INTERROGATORY with specificity. If YOUR objection pertains to a word, phrase, or portion of an INTERROGATORY, state the objection with specificity and answer the remainder of the INTERROGATORY. Leave no part of an INTERROGATORY unanswered merely because an objection is interposed to another part of the interrogatory.
4. Each INTERROGATORY should be construed independently and not with reference to any other INTERROGATORY for purposes of limitation.
5. If a DOCUMENT is provided in response to an INTERROGATORY, IDENTIFY which DOCUMENT(S) is (are) being provided to answer that INTERROGATORY; if YOU are asked to IDENTIFY DOCUMENTS, include Bates numbers.
6. Each INTERROGATORY should be responded to upon YOUR entire knowledge from all sources and all information in YOUR possession or otherwise available to YOU, including information from agents, representatives, consultants, or attorneys, and information which is known to each of them.
7. If any of the INTERROGATORIES cannot be responded to in full, respond to the extent possible, specifying the reason for YOUR inability to respond to the remainder. If YOUR responses are qualified in any respect, set forth the terms and an explanation of each such qualification.

8. To the extent YOU produce DOCUMENTS, all DOCUMENTS shall be produced in accordance with the methods described in defendants requests for production of documents served concurrently herewith.

9. If YOU are aware of any DOCUMENT responsive to these INTERROGATORIES which has been destroyed, lost or otherwise disposed of, and which would have been responsive to any of the INTERROGATORIES if the DOCUMENT had not been destroyed, lost or otherwise disposed of, please provide the following information: (1) the author of the DOCUMENT(s); (2) a description of the DOCUMENT(s); (3) the date the DOCUMENT(s) was/were destroyed; (4) the name and address of all witnesses who have knowledge of such loss, destruction or disposal; (5) the name and address of each person to whom the DOCUMENT(s) was/were addressed or who was sent or received a copy of the DOCUMENT(s); (6) the subject matter of the DOCUMENT(s); (7) a list of all DOCUMENTS that relate or refer in any way to the loss, destruction or disposal of the DOCUMENT(s); (8) the reason for destroying or otherwise disposing of the DOCUMENT(s).

10. If in answering these INTERROGATORIES YOU claim any ambiguity in interpreting an INTERROGATORY or definition or instruction applicable thereto, such claim shall not be utilized by YOU as a basis for refusing to respond, but YOU shall provide as part of the RESPONSE YOUR interpretation of the language that YOU deem ambiguous.

11. Where an INTERROGATORY calls for information with respect to “each” one of a particular type of matter, event, or PERSON, of which there is more than one, separately list, set forth or IDENTIFY for each thereof all of the information called for in the INTERROGATORY.

12. If YOU do not possess knowledge of the requested information, YOU should so state YOUR lack of knowledge and describe all efforts made by YOU to obtain the information necessary to answer the INTERROGATORY.

13. In no event should YOU leave any response blank. If the answer to an INTERROGATORY is, for example, “none,” “unknown,” or “not applicable,” such statement should be written as an answer.

14. If YOU have no knowledge regarding an INTERROGATORY, IDENTIFY an individual whom YOU believe to have the knowledge necessary to respond to the INTERROGATORY.

15. These INTERROGATORIES are continuing. If, after providing YOUR initial Response, YOU obtain or become aware of any further information responsive to these INTERROGATORIES, YOU must provide additional and/or supplemental Responses. This paragraph shall not be construed to alter YOUR obligations to comply with all other instructions herein.

INTERROGATORIES

INTERROGATORY NO. 1:

IDENTIFY all PERSONS having information RELATED TO the CONTESTED MARK’s creation, consideration, design, development, selection, adoption or ownership.

INTERROGATORY NO. 2:

IDENTIFY and describe all information, including all COMMUNICATIONS and DOCUMENTS, RELATED TO the CONTESTED MARK’s creation, consideration, design, development, selection, adoption or ownership.

INTERROGATORY NO. 3:

IDENTIFY all PERSONS who have or have had responsibility for the marketing, promotion, or sale of products or services in connection with the CONTESTED MARK.

INTERROGATORY NO. 4:

IDENTIFY all products or services that have been or will be sold, offered for sale, promoted, or marketed in connection with the CONTESTED MARK, including all geographic locations and online platforms where those products or service have been or will be offered.

INTERROGATORY NO. 5:

For each product or service identified in response to INTERROGATORY No. 4, IDENTIFY YOUR monthly sales volume for each respective product or service by unit and dollar amount.

INTERROGATORY NO. 6:

IDENTIFY and describe all information, including all COMMUNICATIONS and DOCUMENTS, RELATED TO the products or services that have been or will be sold, offered for sale, promoted, or marketed in connection with the CONTESTED MARK.

INTERROGATORY NO. 7:

IDENTIFY and describe all information, including all COMMUNICATIONS and DOCUMENTS, RELATED TO the circumstances under which YOU first discovered the existence of the IVY PARK MARK.

INTERROGATORY NO. 8:

IDENTIFY all PERSONS having knowledge or information RELATED TO the circumstances under which YOU first discovered the existence of the IVY PARK MARK.

INTERROGATORY NO. 9:

IDENTIFY all PERSONS having knowledge or information RELATED TO any formal or informal trademark search or investigation involving the CONTESTED MARK's language.

INTERROGATORY NO. 10:

IDENTIFY and describe all information, including all COMMUNICATIONS and DOCUMENTS, RELATED TO any formal or informal trademark search or investigation that YOU performed or ordered to be performed involving the CONTESTED MARK.

INTERROGATORY NO. 11:

State all facts supporting YOUR contention that the wording of the CONTESTED MARK is “unique and distinctive.”

INTERROGATORY NO. 12:

State all facts supporting YOUR contention that the wording of the CONTESTED MARK and the IVY PARK MARK “are different.”

INTERROGATORY NO. 13:

State all facts supporting YOUR contention that the wording of the CONTESTED MARK and the IVY PARK MARK “are different in appearance.”

INTERROGATORY NO. 14:

State all facts supporting YOUR contention that the wording of the CONTESTED MARK and the IVY PARK MARK “are different in spelling.”

INTERROGATORY NO. 15:

State all facts supporting YOUR contention that the CONTESTED MARK and the IVY PARK MARK “create different commercial impressions.”

INTERROGATORY NO. 16:

State all facts supporting YOUR contention that the CONTESTED MARK is “not likely to cause confusion, mistake or deception to purchasers as to the source of [OPPOSER’s] goods or services.”

INTERROGATORY NO. 17:

State all facts supporting YOUR contention that the CONTESTED MARK is “not likely to disparage or falsely suggest a trade connection between [OPPOSER] and [APPLICANT].”

INTERROGATORY NO. 18:

State all facts supporting YOUR contention that the CONTESTED MARK does not infringe the IVY PARK MARK.

INTERROGATORY NO. 19:

IDENTIFY all persons who have knowledge RELATED TO any of the responses to these INTERROGATORIES and/or who have assisted in the preparation of YOUR responses to these INTERROGATORIES.

INTERROGATORY NO. 20:

If YOU deny, either in whole or in part, any request for admission served by the defendants, state all facts and IDENTIFY all COMMUNICATIONS and DOCUMENTS that form the basis for each denial or partial denial.

Dated: July 20, 2017

LATHAM & WATKINS LLP

By /Marvin S. Putnam/
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*Attorneys for Opposer,
Parkwood Topshop Athletic Limited*

CERTIFICATE OF SERVICE

I, John Eastly, hereby certify that on July 20, 2017, I served a true and correct copy of the foregoing **OPPOSER'S FIRST SET OF INTERROGATORIES TO APPLICANT 47 | 72 INC** by electronic mail upon:

Mike Lin, Esq.
47/72, Inc.
900 East 1st Street, Unit 110
Los Angeles, CA 90012
mikelinsf@gmail.com

Counsel for Applicant
47/72, Inc.

/John M. Eastly/
John M. Eastly

EXHIBIT 3
TO THE
DECLARATION OF
JONATHAN R. SANDLER

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

PARKWOOD TOPSHOP ATHLETIC
LIMITED,

Opposer,

v.

47 | 72 Inc.,

Applicant.

Opposition No. 91231822

Serial No. 87001440

Mark: **POISON IVY PARK**

**OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS TO APPLICANT 47 | 72 INC.**

Opposer, Parkwood Topshop Athletic Limited, pursuant to Rule 34 of the Federal Rules of Civil Procedure and 37 C.F.R. § 2.120, hereby serves its first set of requests for production of documents on Applicant, 47 | 72 Inc. (“REQUESTS”), and requests that the documents sought be produced within thirty (30) days of service hereof at the offices of Opposer’s attorneys, Latham & Watkins LLP, Attn: Laura Washington, 10250 Constellation Blvd. Suite 1100, Los Angeles, CA 90067. The documents produced shall be labeled to correspond to the REQUESTS for which they are produced.

DEFINITIONS

1. “APPLICANT,” “YOU,” and “YOUR” shall mean 47 | 72 Inc., Mike Lin, and both of their respective attorneys, attorneys-in-fact, agents, representatives, officers, board members, employees, guardians, insurance companies, servants, accountants, investigators, successors, predecessors, assigns, and anyone else acting on their behalf or subject to their CONTROL.
2. “OPPOSER” shall mean Parkwood Topshop Athletic Limited.
3. “IVY PARK MARK” shall refer to the IVY PARK mark, registered by OPPOSER with the USPTO having Serial No. 86897192 and Registration No. 5169457.
4. “CONTESTED MARK” shall refer to the POISON IVY PARK mark, which APPLICANT applied for with the USPTO, having Serial No. 87001440.
5. “DOCUMENT(S)” shall mean and refer to any and all written, recorded (by tape, video or otherwise), graphic, or photographic matter, however produced or reproduced, pertaining in any manner to the subject matter indicated and includes, without limiting the generality of the foregoing, all agreements, appointment books, bills, bills of material, books, cablegrams, calendars, cards, cellular telephone data, charts, checks, computer data, computer

hard copy, computer printouts, email communications (including email communications between and/or among any of the following: YOU, OPPOSER and/or any party to the above-captioned matter), contracts, correspondence, credit memoranda, data files, development reports or studies, diaries, drainage reports or studies, engineering records, environmental reports or studies, electronic mail, expense accounts, feasibility reports or studies, file cards, films, financial statements and reports, insurance policies, invoices, journals, ledgers, letters, logs, manuals, maps, memoranda, memorials of telephone conversations, microfilm, minutes, notebooks, notes, notices, papers, presentations, protocols, publications, purchase orders, receipts, recordings by any medium, records, reports, research, slides, specifications, statements, studies, telegrams, telexes, text messages, timesheets, transcripts, web pages, and any other pertinent information set forth in written language or any electronic representation thereof. DOCUMENT(S) shall further include, without limitation, all preliminary, intermediate, and final drafts or versions of any DOCUMENT, including all originals or copies thereof, as well as any notes, comments, and marginalia appearing on any DOCUMENT, and shall not be limited in any way with respect to the process by which any DOCUMENT was created, generated, or reproduced, or with respect to the medium in which the DOCUMENT is embodied. DOCUMENT(S) shall include all tangible forms of expression within YOUR custody, possession, or CONTROL. The term DOCUMENT(S) specifically includes ELECTRONIC DATA.

6. “ELECTRONIC DATA” shall include writings of every kind and description whether inscribed by mechanical, facsimile, electronic, magnetic, digital or other means, and means the original, or identical duplicate when the original is not available, and any non-identical copies, whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations or highlighting of any kind. ELECTRONIC DATA

includes, but is not limited to, activity listings of electronic mail receipts and/or transmittals, output resulting from the use of any software program, including word processing document(s), spreadsheets, database files, charts, graphs and outlines, electronic mail and any and all items stored on electronic media, including, but not limited to, cellular telephones, computer memories, hard disks, floppy disks, CD-ROMs and removable media. The term “ELECTRONIC DATA” also includes the file, folder tabs and/or containers and labels appended to, or associated with, any physical storage device associated with each original and/or copy.

7. “COMMUNICATE,” “COMMUNICATED,” or “COMMUNICATION(S)” shall mean and refer to the exchange of information by any means, including, without limitation, telephone, telecopy, facsimile, electronic mail, text message, or other electronic medium, letter, memorandum, notes or other writing method, meeting, discussion, conversation or other form of verbal expression.

8. “CONTROL,” “CONTROLLED,” or “CONTROLLING” shall mean and refer to the authority, capability, capacity, and/or power to check, command, control, dictate, direct, govern, oversee, regulate, restrain, or otherwise exercise any influence over, or suggest or dictate to any extent the behavior of, any PERSON.

9. “RELATE TO,” “RELATED TO,” or “RELATING TO” shall mean relating to, pertaining to, referring to, evidencing, in connection with, reflecting, respecting, concerning, based upon, stating, showing, establishing, supporting, bolstering, contradicting, refuting, diminishing, constituting, describing, recording, noting, embodying, memorializing, containing, mentioning, studying, analyzing, discussing, specifying, identifying, or in any other way bearing on the matter addressed in the REQUEST, in whole or in part.

10. “PERSON,” as used herein, shall mean an individual, firm, partnership, company, corporation, proprietorship, association, profit sharing plan, union, federation, domestic or foreign government body, or any other organization or entity, including but not limited to groups of natural persons acting in an organizational capacity, such as a board of directors or committee of such board, or government entity.

11. Wherever the word “any” appears herein, it shall be read and applied so as to include the word “all,” and wherever the word “all” appears herein, it shall be read and applied so as to include the word “any.”

12. All references herein to the singular include the plural, and all references to the plural include the singular.

13. The terms “and” and “or” as used herein each mean “and/or.”

INSTRUCTIONS

1. Each REQUEST contained herein extends to all DOCUMENTS in YOUR possession, custody, or CONTROL, including DOCUMENTS in the possession of YOUR present and former employees, officers, directors, trustees, representatives, affiliates, and agents, and of other PERSONS acting on YOUR behalf or under YOUR CONTROL.

2. All drafts of responsive DOCUMENTS must be produced, as well as non-identical copies. A DOCUMENT is a non-identical copy if such DOCUMENT includes any change from another responsive DOCUMENT, including without limitation, highlighting, notes, comments, revisions, or alterations. Identical copies of produced DOCUMENTS need not be produced.

3. If a claim of privilege is asserted in objecting to any DOCUMENT demand, or sub-part thereof, and an answer is not provided on the basis of such assertion, YOU shall provide the following information:

- a) the author(s) of the DOCUMENT;
- b) a description of the type of DOCUMENT;
- c) the date of the DOCUMENT;
- d) the name and address of all recipients listed on the DOCUMENT
- e) the number of pages of the DOCUMENT;
- f) the subject matter of the DOCUMENT; and
- g) the basis for not producing the DOCUMENT.

4. If YOU are aware of any DOCUMENT which has been destroyed, lost or otherwise disposed of, and which would have been responsive to any of the REQUESTS if the DOCUMENT had not been destroyed, lost or otherwise disposed of, please provide the following information: (1) the author of the DOCUMENT(s); (2) a description of the DOCUMENT(s); (3) the date the DOCUMENT(s) was/were destroyed; (4) the name and address of all witnesses who have knowledge of such loss, destruction or disposal; (5) the name and address of each person to whom the DOCUMENT(s) was/were addressed or who was sent or received a copy of the DOCUMENT(s); (6) the subject matter of the DOCUMENT(s); (7) a list of all DOCUMENTS that relate or refer in any way to the loss, destruction or disposal of the DOCUMENT(s); (8) the reason for destroying or otherwise disposing of the DOCUMENT(s).

5. If in answering these discovery REQUESTS YOU claim any ambiguity in interpreting a REQUEST or definition or instruction applicable thereto, such claim shall not be

utilized by YOU as a basis for refusing to respond, but YOU shall provide as part of the response YOUR interpretation of the language that YOU deem ambiguous.

6. To the extent possible, all DOCUMENTS should be produced in the form in which they are normally kept, including all electronic DOCUMENTS. If DOCUMENTS are stored in electronic form, please transfer them to an electronic medium that will ensure that they are kept in the same form and organization as when in YOUR possession, custody or CONTROL.

7. All electronically-stored information (“ESI”) shall be produced as Bates-numbered TIFF files with a load file, with the exception of any spreadsheets or databases, which shall be produced in native format. Any TIFF files for DOCUMENTS maintained in electronic format in the usual course of business shall be generated directly from the native file and shall preserve any and all available metadata, including, but not limited to the following fields: “Custodian,” “File Path,” “Subject,” “Conversion Index,” “From,” “To,” “CC,” “BCC,” “Date Sent,” “Time Sent,” “Date Received,” “Time Received,” “Filename,” “Author,” “Date Created,” “Date Modified,” “MD5 Hash,” “File Size,” “File Extension,” “Control Number Begin,” “Control Number End,” “Attachment Range,” “Attachment Begin,” and “Attachment End.”

8. These REQUESTS are continuing. If, after making YOUR initial production, YOU obtain or become aware of any further DOCUMENTS responsive to these REQUESTS. YOU must produce such additional DOCUMENTS consistent with and 37 C.F.R. § 2.120 and Federal Rule of Civil Procedure 26(e).

REQUESTS FOR PRODUCTION

REQUEST NO. 1:

ALL DOCUMENTS RELATED TO OPPOSER.

REQUEST NO. 2:

All DOCUMENTS RELATING TO any COMMUNICATIONS between YOU and OPPOSER, including without limitation all COMMUNICATIONS RELATING TO the IVY PARK MARK and/or the CONTESTED MARK.

REQUEST NO. 3:

All DOCUMENTS and COMMUNICATIONS RELATED TO the IVY PARK MARK or products marketed or sold under the IVY PARK MARK.

REQUEST NO. 4:

All DOCUMENTS and COMMUNICATIONS RELATED TO YOUR knowledge of the IVY PARK MARK, including without limitation when you first learned of the IVY PARK MARK.

REQUEST NO. 5:

All DOCUMENTS and COMMUNICATIONS RELATED TO the CONTESTED MARK or products that have been or will be marketed or sold under the CONTESTED MARK.

REQUEST NO. 6:

DOCUMENTS sufficient to show the corporate organization and structure associated with YOUR business and the responsible PERSONS with respect to the subsidiaries, affiliates, or divisions that are or will be involved with the creation, production, manufacture, sale, research, design, rendering, marketing and/or advertising of goods or products offered, sold, disseminated, demonstrated, conducted, broadcast, aired, or shown, or intended to be offered, sold, disseminated, demonstrated, conducted, broadcast, aired or shown, in connection with the CONTESTED MARK.

REQUEST NO. 7:

All DOCUMENTS RELATED TO any and all domain names that YOU own or CONTROL, or previously owned or CONTROLLED, that contain the words “Ivy Park” or any variations or abbreviations of those words.

REQUEST NO. 8:

All DOCUMENTS RELATED TO YOUR selection and adoption of the phrase “Poison Ivy Park” for use in connection with YOUR products (or future products) marketed or sold under the CONTESTED MARK, including all DOCUMENTS CONCERNING any and all other phrases that YOU considered as potential alternatives or substitutes for the phrase “Poison Ivy Park.”

REQUEST NO. 9:

All DOCUMENTS RELATED TO YOUR application(s) and registration(s) of the CONTESTED MARK.

REQUEST NO. 10:

All DOCUMENTS RELATED TO any trademark searches, clearance analyses, studies, reports, and/or investigations conducted by YOU or on YOUR behalf in connection with YOUR selection, adoption, and/or use of the CONTESTED MARK.

REQUEST NO. 11:

All DOCUMENTS RELATED TO any search for trademark registrations and uses of names including “Ivy Park” or “Poison Ivy Park.”

REQUEST NO. 12:

All DOCUMENTS RELATING TO COMMUNICATIONS with retailers, vendors, customers, and/or potential customers RELATING TO any and all products offered, advertised, sold, or otherwise promoted or used by YOU in connection with the CONTESTED MARK.

REQUEST NO. 13:

All DOCUMENTS RELATING TO COMMUNICATIONS with retailers, vendors, customers, and/or potential customers RELATING TO the IVY PARK MARK.

REQUEST NO. 14:

All DOCUMENTS RELATING TO COMMUNICATIONS with retailers, reporters, media outlets (including social media platforms), vendors, customers, and/or potential customers

RELATING TO any and all instances of confusion between the CONTESTED MARK and/or the IVY PARK MARK.

REQUEST NO. 15:

DOCUMENTS sufficient to show when YOU first used the CONTESTED MARK in connection with the offering, advertisement, sales, or promotion of any of YOUR products.

REQUEST NO. 16:

All DOCUMENTS RELATED TO any business plans, budgets and projections prepared by or for YOU RELATED TO YOUR use of the CONTESTED MARK.

REQUEST NO. 17:

All DOCUMENTS RELATED TO YOUR attempts to sell, monetize, or otherwise earn revenue from any product offered, advertised, sold, or otherwise promoted or used by YOU in connection with the CONTESTED MARK.

REQUEST NO. 18:

All DOCUMENTS RELATING TO any revenue YOU have derived from any product offered, advertised, sold, or otherwise promoted or used by YOU in connection with the CONTESTED MARK.

REQUEST NO. 19:

All DOCUMENTS RELATING TO YOUR anticipated future revenues expected to be generated by any product offered, advertised, sold, or otherwise promoted or used by YOU in connection with the CONTESTED MARK.

REQUEST NO. 20:

All DOCUMENTS RELATED TO any and all past, current, and/or future intended advertising or marketing for each product offered, advertised, sold, or otherwise promoted or used by YOU in connection with the CONTESTED MARK.

REQUEST NO. 21:

All DOCUMENTS RELATED TO any discussion or decision by YOU to cease use of the CONTESTED MARK.

REQUEST NO. 22:

DOCUMENTS sufficient to show all products that YOU considered offering, have offered, are offering, or intend to offer in connection with the CONTESTED MARK.

REQUEST NO. 23:

All DOCUMENTS RELATED TO any attempts, successful or otherwise, by YOU to register any trademark with the United States Patent and Trademark Office incorporating, or otherwise related to the phrase “Ivy Park.”

REQUEST NO. 24:

All DOCUMENTS RELATED TO any other trademark for which YOU filed an application with the United States Patent and Trademark Office.

REQUEST NO. 25:

All DOCUMENTS RELATED TO any other litigation, opposition, or other dispute involving a trademark for which YOU have filed an application with the United States Patent and Trademark Office.

REQUEST NO. 26:

All DOCUMENTS RELATED TO any settlement agreements between YOU and any third parties arising from any other litigation, opposition, or other dispute involving a trademark for which YOU have filed an application with the United States Patent and Trademark Office.

REQUEST NO. 27:

All DOCUMENTS RELATED TO any actual or potential confusion between the CONTESTED MARK (or any and all products offered, advertised, sold, or otherwise promoted or used by YOU in connection with the CONTESTED MARK), on the one hand, and the IVY PARK MARK (or products marketed or sold under that mark), on the other hand, including any misdirected phone calls, mail, emails, or inquiries RELATED TO whether YOU (or any of YOUR products) are or were associated with, sponsored by, or in any manner connected with the IVY PARK MARK and/or OPPOSER.

REQUEST NO. 28:

All DOCUMENTS RELATED TO any actual or potential connection, affiliation, or association between YOU and OPPOSER and/or the IVY PARK MARK.

REQUEST NO. 29:

All DOCUMENTS RELATED TO any consumer surveys conducted by or for YOU RELATING TO any actual or potential connection, affiliation, or association between YOU and OPPOSER.

REQUEST NO. 30:

All DOCUMENTS RELATED TO any and all logos or labels that YOU have ever used or considered using in connection with YOUR products marketed or sold under or in connection with the CONTESTED MARK.

REQUEST NO. 31:

All DOCUMENTS RELATED TO any web page or site(s) on which YOUR products are marketed or sold under or in connection with the CONTESTED MARK.

REQUEST NO. 32:

DOCUMENTS sufficient to show all of YOUR products and the retail package sizes for each such products sold under the CONTESTED MARK.

REQUEST NO. 33:

All DOCUMENTS RELATED TO any press reports including, but not limited to, press releases, video and audio recordings of TV or radio coverage of YOU or YOUR products under the CONTESTED MARK by news organizations, and press clippings that mention YOU and/or YOUR products under the CONTESTED MARK.

REQUEST NO. 34:

All DOCUMENTS RELATED TO YOUR contention that the CONTESTED MARK “is unique and distinctive.”

REQUEST NO. 35:

All DOCUMENTS RELATED TO YOUR contention that the wording of the CONTESTED MARK and the IVY PARK MARK “are different.”

REQUEST NO. 36:

All DOCUMENTS RELATED TO YOUR contention that the wording of the CONTESTED MARK and the IVY PARK MARK “are different in appearance.”

REQUEST NO. 37:

All DOCUMENTS RELATED TO YOUR contention that the wording of the CONTESTED MARK and the IVY PARK MARK “are different in spelling.”

REQUEST NO. 38:

All DOCUMENTS RELATED TO YOUR contention that the CONTESTED MARK and the IVY PARK MARK “create different commercial impressions.”

REQUEST NO. 39:

All DOCUMENTS RELATED TO YOUR contention that the CONTESTED MARK is “not likely to cause confusion, mistake or deception to purchasers as to the source of [OPPOSER’s] goods or services.”

REQUEST NO. 40:

All DOCUMENTS RELATED TO YOUR allegation that the CONTESTED MARK is “not likely to disparage or falsely suggest a trade connection between [OPPOSER] and [APPLICANT].”

REQUEST NO. 41:

All DOCUMENTS not otherwise requested herein that were relied on, referred to, or used by YOU in preparing responses to these REQUESTS, Opposer’s First Set of Interrogatories, or Opposer’s First Set of Requests for Admission.

Dated: July 20, 2017

LATHAM & WATKINS LLP

By /Marvin S. Putnam/
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*Attorneys for Opposer,
Parkwood Topshop Athletic Limited*

CERTIFICATE OF SERVICE

I, John Eastly, hereby certify that on July 20, 2017, I served a true and correct copy of the foregoing **OPPOSER'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO APPLICANT 47 | 72 INC** by electronic mail upon:

Mike Lin, Esq.
47/72, Inc.
900 East 1st Street, Unit 110
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Counsel for Applicant
47/72, Inc.

/John M. Eastly/
John M. Eastly